

Appl. No. 09/712,935
Amdt. dated June 29, 2005
Reply to Office Action of June 9, 2005

REMARKS

Prior to this Amendment, claims 1, 3, 5, 7-9, 11, 12, 14, and 20-23 were pending in the application (with claims 20-23 being withdrawn from consideration).

Claim 1 is amended to address a statutory subject matter rejection and to include the limitations of allowable dependent claim 6, which is canceled.

Similarly, independent claims 9 and 12 are amended to include the limitations found in allowable dependent claim 6, with dependent claims 11 and 14 being canceled.

In response to a restriction requirement, claims 20-23 were withdrawn as not being to an elected species. However, Applicant requests that the Examiner consider whether the base claims, which are now believed allowable, are generic and therefore, whether claims 20-23 can be found allowable also (see, for example, MPEP 806.04(d)). If not appropriate, Applicant will consider canceling these claims to obtain prompt allowance of the remaining claims.

After entry of the Amendment, claims 1, 7-9, 12, and 20-23 are pending, with claims 20-23 presently being withdrawn.

Allowable Subject Matter

In the Office Action, dependent claim 5 was objected to as being dependent upon a rejected base claim but was found to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 1 is amended to include the limitations of claim 5 and intervening claim 3, both of which are now canceled. This action rewrites allowable claim 5 in independent form, and as a result, claim 1 and claims 7 and 8, which depend from claim 1, are believed in condition for allowance.

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Similarly, independent claims 9 and 12 are amended to include the limitations of allowable claim 5. As a result, claims 9 and 12 and claims 11, 14, and 20-23, which depend from either claim 9 or claim 12, are believed in condition for allowance.

Rejections Under 35 U.S.C. §101

In the Office Action, claims 1, 3, 5, 7, and 8 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Claim 1, from which claims 3 and 5-8 depend, is amended to clarify that the method is performed by an auction engine running on a computer device linked to a communications network. Applicants believe these amendments address this rejection as the operations being performed are not divorced from any technology, and claims 1, 7, and 8 are now directed to proper statutory subject matter.

Rejections Under 35 U.S.C. §112

Additionally, in the Office Action, claims 1, 3, 7-9, 11, 12, and 14 were rejected under 35 U.S.C. §112, first paragraph, as being based on a disclosure that is not enabling. The Examiner asserted that the processes performed in claims 3 and 5 were essential steps based on the specification. The elements of these claims have been added to independent claims 1, 9, and 12.

Claims 1, 3, 7-9, 11, 12, and 14 were also rejected due to improper antecedent basis for "the highest losing proxy bid. This problem is addressed by the addition of the language of claims 3 and 5 to independent claims 1, 9, and 12.

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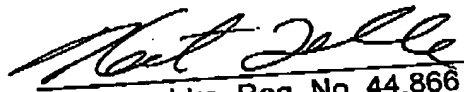
Conclusions

In view of all of the above, Applicants request that a timely Notice of Allowance be issued in this case.

No fees are believed to be required with the Response but should any be required, please charge them to Deposit Account 50-1123.

Respectfully submitted,

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